

AMENDMENTS TO LB 876

1                   1. Strike the original sections and insert the following  
2 new sections:

3                   "Section 1.     (1) By January 1, 2004, the Supreme Court  
4 shall have rules of pleading in civil actions promulgated which are  
5 not in conflict with the statutes governing such matters.

6                   (2) For all civil actions filed on or after January 1,  
7 2004:

8                   (a) The rules of pleading promulgated by the Supreme  
9 Court shall apply;

10                  (b) The plaintiff's initial pleading shall be a petition  
11 when that designation is provided elsewhere by statutes. In all  
12 other civil actions the plaintiff's initial pleading shall be a  
13 complaint;

14                  (c) The cross-petition, cross-bill, and cross-suit are  
15 abolished. Demurrers to a pleading and special appearances shall  
16 not be used. The plea in bar, plea in abatement, and other  
17 dilatory pleas shall not be used in civil actions; and

18                  (d) All pleadings shall be construed as to do substantial  
19 justice.

20                  Sec. 2.   (1) An amendment of a pleading that does not  
21 change the party or the name of the party against whom the claim is  
22 asserted relates back to the date of the original pleading if the  
23 claim or defense asserted in the amended pleading arose out of the  
24 conduct, transaction, or occurrence set forth or attempted to be

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1 set forth in the original pleading.

2           (2) If the amendment changes the party or the name of the  
3 party against whom a claim is asserted, the amendment relates back  
4 to the date of the original pleading if (a) the claim or defense  
5 asserted in the amended pleading arose out of the conduct,  
6 transaction, or occurrence set forth or attempted to be set forth  
7 in the original pleading, and (b) within the period provided for  
8 commencing an action the party against whom the claim is asserted  
9 by the amended pleading (i) received notice of the action such that  
10 the party will not be prejudiced in maintaining a defense on the  
11 merits and (ii) knew or should have known that, but for a mistake  
12 concerning the identity of the proper party, the action would have  
13 been brought against the party.

14           Sec. 3. Section 24-209, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           24-209. (1) One copy of the Nebraska Reports and one  
17 copy of the Nebraska Appellate Reports shall be furnished by the  
18 Supreme Court to each judge of the Supreme Court, Court of Appeals,  
19 Nebraska Workers' Compensation Court, and district, separate  
20 juvenile, and county courts, to each county law library, and to  
21 each state library, ~~to each officer of the executive departments of~~  
22 ~~this state, to the Clerk of the Legislature, and to each judge of~~  
23 ~~the United States District and Circuit Courts of this state, and~~  
24 two copies of such reports shall be furnished to the Legislative  
25 Council. The State Court Administrator shall be furnished as many  
26 additional copies as he or she deems necessary for the operation of  
27 the Court of Appeals and the Supreme Court. ~~7 two copies, to the~~

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1 library of the College of Law of the University of Nebraska, as  
2 provided in sections ~~85-176~~ and ~~85-177~~, to the Nebraska  
3 Publications Clearinghouse, eight copies, and to the State Court  
4 Administrator's Office, up to fifteen copies.

5 (2) One advance copy of the opinions of the Nebraska  
6 Supreme Court in pamphlet form, known as the Nebraska Advance  
7 Sheets, and one advance copy of the opinions of the Nebraska Court  
8 of Appeals in pamphlet form, known as the Decisions of the Nebraska  
9 Court of Appeals, shall be furnished to each judge of the Supreme  
10 Court, Court of Appeals, Nebraska Workers' Compensation Court, and  
11 district, separate juvenile, and county courts, as many advance  
12 copies as may be requested by the members of the Legislature shall  
13 be furnished to the Clerk of the Legislature, ~~two advance copies~~  
14 ~~shall be furnished to each standing committee of the Legislature,~~  
15 ~~up to twenty-five advance copies shall be furnished to the Attorney~~  
16 ~~General, one advance copy shall be furnished to the Governor, and~~  
17 the State Court Administrator shall be furnished as many advance  
18 copies as he or she deems necessary for the operation of the Court  
19 of Appeals and the Supreme Court.

20 (3) The balance of the Nebraska Reports, Nebraska  
21 Appellate Reports, Nebraska Advance Sheets, and Decisions of the  
22 Nebraska Court of Appeals shall be sold as called for at such price  
23 as shall be prescribed by the Supreme Court. The Supreme Court  
24 shall also prescribe the price for microform copies of the reports.  
25 The money received from such sales shall be paid into the Supreme  
26 Court Reports Cash Fund which is hereby created.

27 (4) Upon request from any office or entity entitled to

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1 free copies of the Nebraska Reports, the Nebraska Appellate  
2 Reports, the Nebraska Advance Sheets, or the Decisions of the  
3 Nebraska Court of Appeals, the court may stop sending the  
4 publications to such office or entity until the request is  
5 withdrawn.

6 Sec. 4. Section 25-217, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 25-217. An action is commenced on the date the ~~petition~~  
9 complaint is filed with the court. The action shall stand  
10 dismissed without prejudice as to any defendant not served within  
11 six months from the date the ~~petition~~ complaint was filed.

12 Sec. 5. Section 25-318, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 25-318. Of the parties to the action, those who are  
15 united in interest ~~must~~ shall be joined as plaintiffs or  
16 defendants; but if the consent of one who should have been joined  
17 as plaintiff cannot be obtained, he or she may be made a defendant,  
18 the reason being stated in ~~petition~~ the complaint.

19 Sec. 6. Section 25-321, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 25-321. When the plaintiff ~~shall be~~ is ignorant of the  
22 name of the defendant, such defendant may be designated in any  
23 pleading or proceeding by any name, or any name and description,  
24 followed by the words, "real name unknown". In any such case the  
25 person intended shall thereupon be regarded as a defendant in such  
26 action or proceeding and as sufficiently identified therein for all  
27 purposes, including service of summons or constructive service when

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1 authorized and as prescribed by the Code of Civil Procedure of the  
2 State of Nebraska in Chapter 25. In any action wherein it is  
3 alleged in the ~~petition~~ complaint or other pleading that there are  
4 persons who have or that there are persons who claim or appear to  
5 have some interest in, right or title to, or lien upon any real or  
6 personal property within this state involved in such action, and  
7 that the ownership of, interest in, rights or title to, or lien  
8 upon such property of such persons, does not appear of record, in  
9 or by their respective names, in the county wherein such property  
10 is situated, and that the plaintiff or person in whose behalf such  
11 allegations are made, after diligent investigation and inquiry, is  
12 unable to ascertain and does not know the names or whereabouts if  
13 in this state, or the residence of such persons, such action may  
14 proceed against all such persons designated as "all persons having  
15 or claiming any interest in" such property which shall be  
16 accurately and definitely described, followed by the words, "real  
17 names unknown".

18 Sec. 7. Section 25-323, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 25-323. The court may determine any controversy between  
21 parties before it when it can be done without prejudice to the  
22 rights of others or by saving their rights; but when a  
23 determination of the controversy cannot be had without the presence  
24 of other parties, the court must order them to be brought in.

25 Any person whose negligence was or may have been a  
26 proximate cause of an accident or occurrence alleged by the  
27 plaintiff, other than parties who have been released by the

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1 plaintiff and are not subject to suit pursuant to section  
2 25-21,185.11, may be brought into the suit by any ~~defendant party~~  
3 in the manner provided in section 25-331 or 25-705. ~~by any~~  
4 ~~plaintiff in the manner provided in sections 25-849 and 25-852.~~

5 Sec. 8. Section 25-328, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 25-328. Any person who has or claims an interest in the  
8 matter in litigation, in the success of either of the parties to an  
9 action, or against both, in any action pending or to be brought in  
10 any of the courts of the State of Nebraska, may become a party to  
11 an action between any other persons or corporations, either by  
12 joining the plaintiff in claiming what is sought by the ~~petition~~  
13 complaint, or by uniting with the defendants in resisting the claim  
14 of the plaintiff, or by demanding anything adversely to both the  
15 plaintiff and defendant, either before or after issue has been  
16 joined in the action, and before the trial commences.

17 Sec. 9. Section 25-330, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 25-330. The intervention shall be by ~~petition~~ complaint,  
20 which ~~must~~ shall set forth the facts on which the intervention  
21 rests, and all the pleadings therein shall be governed by the same  
22 rules as ~~obtain in regard to~~ other pleadings provided for ~~by this~~  
23 ~~code~~ in Chapter 25. If such ~~petition~~ complaint is filed during  
24 term, the court shall direct the time in which answers thereto  
25 shall be filed.

26 Sec. 10. Section 25-331, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

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1                   25-331.   (1) At any time after commencement of the  
2 action, a ~~defendant~~ defending party, as a third-party plaintiff,  
3 may cause a summons and complaint to be served upon a person not a  
4 party to the action who is or may be liable to ~~him~~ the third-party  
5 plaintiff for all or part of the plaintiff's claim against ~~him~~ the  
6 third-party plaintiff. The third-party plaintiff need not obtain  
7 leave to make the service if the third-party plaintiff files the  
8 third-party complaint not later than ten days after filing the  
9 original answer. Otherwise the third-party plaintiff must obtain  
10 leave of the trial court on motion upon notice to all parties to  
11 the action. ~~before filing a third-party complaint. When~~  
12 ~~authorized by the trial court the~~ The person served with the  
13 summons and third-party complaint, hereinafter called the  
14 third-party defendant, shall have all the rights of a defendant  
15 including the rights authorized by this section. The third-party  
16 defendant may assert against the plaintiff any defenses which the  
17 third-party plaintiff has to the plaintiff's claim. The  
18 third-party defendant may also assert any claim against the  
19 plaintiff arising out of the transaction or occurrence that is the  
20 subject matter of the plaintiff's claim against the third-party  
21 plaintiff. The plaintiff may assert any claim against the  
22 third-party defendant arising out of the transaction or occurrence  
23 that is the subject matter of the plaintiff's claim against the  
24 third-party plaintiff. The third-party defendant shall have all  
25 the rights of a defendant including the rights authorized by this  
26 section. The court on its own motion, or motion of any party, may  
27 move to strike the third-party claim, or for its severance or

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1 separate trial if the third-party claim should delay trial, might  
2 tend to confuse a jury, or in any way jeopardize the rights of the  
3 plaintiff. A third-party defendant or subsequent defendants may  
4 proceed under this section.

5 (2) When a counterclaim is asserted against a plaintiff,  
6 the plaintiff may cause a third party to be brought in under  
7 circumstances which under this section would entitle a defendant to  
8 do so.

9 Sec. 11. Section 25-501, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 25-501. A civil action must be commenced by filing ~~of~~ a  
12 ~~petition~~ complaint in the office of the clerk of a proper court.

13 Sec. 12. Section 25-503.01, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 25-503.01. (1) The summons shall be directed to the  
16 defendant or defendants, and contain the names of the parties and  
17 the name and address of the plaintiff's attorney, if any, otherwise  
18 the address of the plaintiff. It shall notify defendant that in  
19 order to defend the lawsuit an appropriate written response ~~must~~  
20 shall be filed with the court within thirty days after service, and  
21 that upon failure to do so the court may enter judgment for the  
22 relief demanded in the ~~petition~~ complaint.

23 (2) A judgment by default shall not be different in kind  
24 from that demanded in the ~~petition~~ complaint. If only special  
25 damages are demanded a judgment by default shall not exceed the  
26 amount demanded in the ~~petition~~ complaint.

27 Sec. 13. Section 25-504.01, Reissue Revised Statutes of



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1 Nebraska, is amended to read:

2           25-504.01.     A copy of the ~~petition~~ complaint shall be  
3 served with the summons, except when service is by publication.  
4 The plaintiff shall deliver to the clerk sufficient copies of the  
5 ~~petition~~ complaint at the time it is filed.

6           Sec. 14.   Section 25-516.01, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           25-516.01.   (1) The voluntary appearance of the party is  
9 equivalent to service.

10           (2) ~~Prior to filing any other pleading or motion, a~~  
11 ~~special appearance may be made for the purpose of objecting to the~~  
12 ~~jurisdiction of the court over the person of the defendant. The~~  
13 ~~defendant's assertion of a claim for affirmative relief by way of~~  
14 ~~counterclaim, cross-claim, or third-party claim waives any~~  
15 ~~objection that the court erred in overruling the special~~  
16 ~~appearance. The defendant's participation in proceedings on any~~  
17 ~~issue other than jurisdiction over the person waives any objection~~  
18 ~~that the court erred in overruling the special appearance except~~  
19 ~~the objection that the defendant is not amenable to process issued~~  
20 ~~by a court of this state~~ A defense of lack of jurisdiction over the  
21 person, insufficiency of process, or insufficiency of service of  
22 process may be asserted only under the procedure provided in the  
23 pleading rules adopted by the Supreme Court. If any of those  
24 defenses are asserted either by motion or in a responsive pleading  
25 and the court overrules the defense, an objection that the court  
26 erred in its ruling will be waived and not preserved for appellate  
27 review if the party asserting the defense either (a) thereafter

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1 files a demand for affirmative relief by way of counterclaim,  
2 cross-claim, or third-party claim or (b) fails to dismiss a demand  
3 for such affirmative relief that was previously filed. If any of  
4 those defenses are asserted either by motion or in a responsive  
5 pleading and the court overrules the defense, an objection that the  
6 court erred in its ruling on any issue, except the objection that  
7 the party is not amenable to process issued by a court of this  
8 state, will be waived and not preserved for appellate review if the  
9 party asserting the defense thereafter participates in proceedings  
10 on any issue other than those defenses.

11           Sec. 16.     Section 25-519, Revised Statutes Supplement,  
12 2000, is amended to read:

13           25-519.   The publication shall be made once in each week  
14 for three successive weeks in some newspaper printed in the county  
15 where the ~~petition~~ complaint is filed if there is any printed in  
16 such county and, if there is not, in some newspaper printed in this  
17 state of general circulation in that county. It ~~must~~ shall contain  
18 a summary statement of the ~~object and prayer~~ claim for relief of  
19 the ~~petition~~ complaint, mention the court wherein it is filed, and  
20 notify the person or persons thus to be served when they are  
21 required to answer.

22           Sec. 17.     Section 25-525, Revised Statutes Supplement,  
23 2000, is amended to read:

24           25-525.   A party against whom a judgment or order has  
25 been rendered without other service than by publication in a  
26 newspaper, may, at any time within five years after the date of  
27 entry of the judgment or order, have the same opened to allow the

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1 applicant to appear in court and make a defense. Before the  
2 judgment or order is opened, the applicant shall give notice to the  
3 adverse party of the intention to make such application and shall  
4 file a full answer to the petition or complaint, pay all costs, if  
5 the court requires them to be paid, and make it appear to the  
6 satisfaction of the court, by affidavit, that during the pendency  
7 of the action the applicant had no actual notice thereof in time to  
8 appear in court and make a defense. The title to any property, the  
9 subject of the judgment or order sought to be opened, which by it,  
10 or in consequence of it, has passed to a purchaser in good faith,  
11 shall not be affected by any proceedings under this section, nor  
12 shall the proceedings affect the title of any property sold before  
13 judgment under an attachment. The adverse party, on the hearing of  
14 an application to open a judgment or order, as provided by this  
15 section, shall be allowed to present counter-affidavits, to show  
16 that during the pendency of the action the applicant had notice  
17 thereof in time to appear in court and make a defense.

18           Sec. 18.     Section 25-531, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           25-531. When the summons has been served or publication  
21 made, the action is pending so as to charge third persons with  
22 notice of pendency. While the action is ~~and while~~ pending no  
23 interest can be acquired by third persons in the subject matter  
24 thereof, as against the plaintiff's title. In ~~PROVIDED, in~~ all  
25 actions brought to affect the title to real property, the plaintiff  
26 may either at the time of filing his or her ~~petition~~ complaint or  
27 afterwards, file, or in case any defendant sets up an affirmative

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1 cause of action, and demands relief which shall affect the title to  
2 real estate, he or she may, at the time of filing such answer, or  
3 at any time afterwards, file with the clerk or register of deeds of  
4 each county in which the ~~said~~ real estate thus to be affected, or  
5 any part thereof, ~~may be~~ is situated, a notice of the pendency of  
6 such action. The notice shall contain ~~containing~~ the names of  
7 the parties, the object of the action, and a description of the  
8 property in such county sought to be affected thereby. If the  
9 action ~~be~~ is for foreclosure of a mortgage, such notice ~~must~~ shall  
10 contain the date of the mortgage, the parties thereto, and the time  
11 and place of recording the same. The clerk or register of deeds of  
12 such county shall record the notice thus filed and enter the same  
13 upon the numerical index of all lands, any part of which is  
14 included in the description in ~~said~~ the notice, for which he or she  
15 shall be entitled to receive filing fees in accordance with  
16 sections 33-109 and 33-112, to be paid by the person filing such  
17 notice, and which shall be taxed as part of the costs in ~~said~~ the  
18 action. From the time of filing such notice the pendency of such  
19 action shall be constructive notice to any purchaser or  
20 encumbrancer to be affected thereby. Every ~~and every~~ person  
21 whose conveyance or encumbrance is subsequently executed or  
22 subsequently recorded shall be deemed to be a subsequent purchaser  
23 or encumbrancer, and shall be bound by all proceedings taken in  
24 ~~said~~ the action after the filing of such notice to the same extent  
25 as if he or she were made a party to the action. The court in  
26 which such action was commenced or any judge thereof may at any  
27 time thereafter on the application of any person aggrieved, ~~and~~ on

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1 good cause shown, and on such notice as the court or judge may  
2 determine, order ~~said the~~ notice to be canceled by the clerk or  
3 register of deeds of any county in which ~~said the~~ notice may have  
4 been filed or recorded by filing a notice of release. In actions  
5 ~~where in which~~ such notice ~~may be~~ is filed in a county or counties,  
6 other than the county in which the action ~~may be~~ is pending, the  
7 county clerk or the register of deeds of the county in which the  
8 action was begun may cancel such notice by executing a written  
9 release under his or her hand and seal by reason of the ~~said the~~  
10 order of the court or judge, and forward such release by mail to  
11 the county clerk or register of deeds of the county in which ~~said~~  
12 the notice has been filed or recorded, and which certificate such  
13 county clerk or register of deeds shall record in the records of  
14 his or her office. At any time after such notice of pendency ~~shall~~  
15 ~~have been~~ is recorded, the party on whose behalf the same was filed  
16 or ~~his~~ the party's attorney of record may cause ~~said the~~ notice to  
17 be canceled in the office of the county clerk or register of deeds  
18 of any county in which ~~said the~~ notice ~~may have~~ has been filed or  
19 recorded. Such cancellation may be made by written release in the  
20 same manner as such cancellations are entered on order of the  
21 court. For the service ~~herein~~ required by this section, the county  
22 clerk or register of deeds shall be entitled to charge and receive  
23 fees in accordance with sections 33-109 and 33-112, to be paid by  
24 the party causing the service to be performed.

25 Sec. 19. Section 25-1002, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 25-1002. An order of attachment shall be approved by a

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1 judge of any district court or county court only after there has  
2 been presented to him or her an affidavit or affidavits based upon  
3 personal knowledge (1) that the facts set forth in plaintiff's  
4 ~~petition~~ complaint which state a valid cause of action and the  
5 amount plaintiff is entitled to recover are true, (2) describing  
6 the existence and approximate value of any of defendant's property  
7 known to the plaintiff to be subject to the jurisdiction of the  
8 court, and (3) stating specific facts demonstrating reasonable  
9 cause that one or more of the grounds for an attachment enumerated  
10 in section 25-1001 exist.

11 Sec. 20. Section 25-1063, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 25-1063. When it appears by the ~~petition~~ complaint that  
14 the plaintiff is entitled to the relief demanded, and such relief  
15 or any part thereof consists in restraining the commission or  
16 continuance of some act, the commission or continuance of which  
17 during the litigation would produce great or irreparable injury to  
18 the plaintiff, or when, during the litigation, it appears that the  
19 defendant is doing, or threatens, or is about to do, or is  
20 procuring or suffering to be done, some act in violation of the  
21 plaintiff's rights respecting the subject of the action and tending  
22 to render the judgment ineffectual, a temporary injunction may be  
23 granted to restrain such act, subject to the limitations of  
24 sections 25-1062 to 25-1080. It may also be granted in any case  
25 ~~where it is~~ specially authorized by statute.

26 Sec. 21. Section 25-1064.01, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

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1                   25-1064.01. Every order granting an injunction and every  
2   restraining order shall: (1) Set forth the reasons for its  
3   issuance; (2) be specific in terms; (3) describe in reasonable  
4   detail, and not by reference to the ~~petition~~ pleading or other  
5   document, the act or acts sought to be restrained; and (4) be  
6   binding only upon the parties to the action, their officers,  
7   agents, servants, employees, and attorneys, and those persons in  
8   active concert or participation with them who receive actual notice  
9   of the order by personal service or otherwise.

10               Sec. 22. Section 25-1075, Reissue Revised Statutes of  
11   Nebraska, is amended to read:

12               25-1075. If the injunction is granted without notice,  
13   the defendant, at any time before the trial, may apply, upon  
14   notice, to the court in which the action is brought or any judge  
15   thereof, to vacate or modify the same. The application may be made  
16   upon the complaint or petition and affidavits upon which the  
17   injunction is granted, or upon affidavits on the part of the party  
18   enjoined, with or without answer. The order of the judge allowing,  
19   dissolving, or modifying an injunction shall be returned to the  
20   office of the clerk of the court in which the action is brought and  
21   recorded and obeyed as if made by the court.

22               Sec. 23. Section 25-1085, Reissue Revised Statutes of  
23   Nebraska, is amended to read:

24               25-1085. If a complainant ~~shall desire~~ desires the  
25   appointment of a receiver at the commencement of the action, ~~he~~  
26   ~~shall pray~~ the complainant shall request such appointment in ~~his~~  
27   ~~bill~~ the complaint. If the occasion for a receiver ~~shall arise~~

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1 arises while the suit is pending, the application shall be made by  
2 a motion ~~petition~~ ~~entitled in the cause,~~ ~~signed and verified by the~~  
3 ~~applicant,~~ and setting forth the facts and circumstances making  
4 such appointment necessary or proper.

5           Sec. 24. Section 25-1102, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           25-1102. An issue of fact arises ~~(1) upon material~~  
8 ~~allegation in the petition denied by the answer,~~ ~~(2) upon a setoff~~  
9 ~~or counterclaim presented in the answer and denied in the reply,~~  
10 ~~and (3) upon material new matter in the answer or reply which shall~~  
11 ~~be considered as controverted by the opposite party without further~~  
12 pleading upon a material allegation in a pleading that is denied by  
13 a responsive pleading or that is considered as denied or avoided  
14 because no responsive pleading is required or permitted.

15           Sec. 25. Section 25-1321, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           25-1321. The complete record shall be made up from  
18 include the ~~petition~~ complaint, the process, the return, the  
19 pleadings subsequent thereto, reports, verdicts, orders, judgments,  
20 and all material acts and proceedings of the court. All +  
21 ~~PROVIDED, however, that all~~ journal entries and all such filings as  
22 are required to be entered in full in the appearance dockets,  
23 shall, by reference, be made a part of the complete record for all  
24 purposes, including the taxing of fees and costs, and need not be  
25 reentered in the making up of such record; but if the items of an  
26 account, or the copies of a paper attached to the pleadings, are  
27 voluminous, the court may order the record to be made by



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1 abbreviating the same, ~~or~~ by inserting a pertinent description  
2 thereof, or by omitting them entirely. Evidence ~~must not be~~  
3 ~~recorded~~ introduced at any proceeding is not part of the complete  
4 record of the cause.

5 Sec. 26. Section 25-1506, Revised Statutes Supplement,  
6 2000, is amended to read:

7 25-1506. The order of sale on all decrees for the sale  
8 of mortgaged premises shall be stayed for the period of nine months  
9 after the entry of such decree, whenever the defendant shall,  
10 within twenty days after the entry of such decree, file with the  
11 clerk of the court a written request for the same. If the  
12 defendant makes no such request within twenty days, the order of  
13 sale may issue immediately after the expiration thereof. As to any  
14 mortgage executed after September 28, 1959, if the original  
15 maturity of indebtedness secured by the mortgage is more than  
16 twenty years after the date of the filing of the ~~petition~~ complaint  
17 to foreclose the mortgage and the mortgage covered a lot or lots,  
18 or any part thereof, in a regularly platted subdivision, or parcel  
19 of residential property not exceeding three acres in area, the stay  
20 period shall be three months, and, as to such a mortgage executed  
21 after October 9, 1961, if such original maturity is more than ten  
22 years but not more than twenty years from and after the date of the  
23 filing of the foreclosure ~~petition~~ complaint, the stay period shall  
24 be six months.

25 Sec. 27. Section 25-1715, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 25-1715. Costs may be allowed on a motion, ~~or demurrer,~~

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1 in the discretion of the court or judge, not exceeding ten dollars,  
2 which shall be absolute against the losing party on such ~~demurrer~~  
3 ~~or motion, except that + PROVIDED,~~ this provision shall not apply  
4 to verbal motions and ~~demurrer~~ ~~ore tenus~~ during the course of the  
5 trial.

6 Sec. 28. Section 25-2002, Revised Statutes Supplement,  
7 2000, is amended to read:

8 25-2002. The proceedings to vacate or modify the  
9 judgment or order on the grounds mentioned in subsection (4) of  
10 section 25-2001 shall be by ~~petition verified by affidavit~~  
11 complaint, setting forth the judgment or order, the grounds to  
12 vacate or modify it, and the defense to the action, if the party  
13 applying was defendant. On such ~~petition~~ complaint a summons shall  
14 issue and be served as in the commencement of an action. Summons  
15 shall not issue in any case in which there is upon the minutes of  
16 the court, or among the files of the case, a waiver of error by the  
17 party or the party's attorney, unless the court or a judge thereof  
18 endorses upon the ~~petition~~ complaint permission to issue such  
19 summons.

20 Sec. 29. Section 25-2005, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 25-2005. A judgment shall not be vacated on motion or  
23 ~~petition~~ complaint, until it is adjudged that there is a valid  
24 defense to the action in which the judgment is rendered, or, if the  
25 plaintiff seeks its vacation, that there is a valid cause of  
26 action; and ~~where~~ when a judgment is modified, all liens and  
27 securities obtained under it shall be preserved to the modified

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1 judgment.

2 Sec. 30. Section 25-2124, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 25-2124. In an action for the recovery of real property,  
5 it shall be sufficient if the ~~plaintiff~~ complaint states ~~in his~~  
6 ~~petition~~ that ~~he~~ the plaintiff has a legal estate therein, and is  
7 entitled to the possession thereof, describing the same, and that  
8 the defendant unlawfully keeps ~~him~~ the plaintiff out of the  
9 possession. It shall not be necessary to state how the plaintiff's  
10 estate or ownership is derived.

11 Sec. 31. Section 25-2125, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 25-2125. It shall be sufficient in such action if the  
14 ~~defendant in his~~ answer denies generally the title alleged in the  
15 ~~petition~~ complaint, or that ~~he~~ the defendant withholds possession,  
16 as the case may be; but if ~~he~~ the defendant denies the title of the  
17 plaintiff, possession by the defendant shall be taken as admitted.  
18 ~~Where he~~ If the defendant does not defend for the whole premises,  
19 the answer shall describe the particular part for which defense is  
20 made.

21 Sec. 32. Section 25-2137, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 25-2137. All ~~petitions~~ complaints for the foreclosure or  
24 satisfaction of mortgages shall be filed in the district court  
25 where the mortgaged premises are situated.

26 Sec. 33. Section 25-2138, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

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1                   25-2138. Whenever a ~~petition shall be~~ complaint is filed  
2 for the foreclosure or satisfaction of a mortgage, the court ~~shall~~  
3 ~~have~~ has the power to decree a sale of the mortgaged premises, or  
4 such part thereof as may be sufficient to discharge the amount due  
5 on the mortgage, and the cost of suit.

6                   Sec. 34. Section 25-2139, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8                   25-2139. When a ~~petition shall be~~ complaint is filed for  
9 the satisfaction of a mortgage, the court ~~shall have~~ has the power  
10 only to decree and compel the delivery of the possession of the  
11 premises to the purchaser thereof.

12                  Sec. 35. Section 25-2140, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14                  25-2140. After ~~such petition shall be~~ a complaint for  
15 foreclosure or satisfaction of a mortgage is filed, while the same  
16 is pending, and after a decree is rendered thereon, no proceedings  
17 whatever shall be had at law for the recovery of the debt secured  
18 by the mortgage, or any part thereof, unless authorized by the  
19 court.

20                  Sec. 36. Section 25-2142, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22                  25-2142. Upon filing a ~~petition~~ complaint for the  
23 foreclosure or satisfaction of a mortgage, the complainant shall  
24 state therein whether any proceedings have been had at law for the  
25 recovery of the debt secured thereby, or any part thereof, and  
26 whether such debt, or any part thereof, has been collected and  
27 paid.

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1                   Sec. 37.     Section 25-2143, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   25-2143.     If it ~~shall appear~~ appears that any judgment  
4 has been obtained in a suit at law for the money demanded by such  
5 ~~petition~~ complaint, or any part thereof, no proceedings shall be  
6 had in such case, unless to an execution against the property of  
7 the defendant in such judgment the sheriff or other proper officer  
8 ~~shall have~~ has returned that the execution is unsatisfied in whole  
9 or in part, and that the defendant has no property whereof to  
10 satisfy such execution except the mortgaged premises.

11                  Sec. 38.     Section 25-2148, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13                  25-2148.     Whenever a ~~petition shall be~~ complaint is filed  
14 for the satisfaction or foreclosure of any mortgage, upon which  
15 there ~~shall be~~ is due any interest on any portion or installment of  
16 the principal, and there ~~shall be~~ are other portions or  
17 installments to become due subsequently, the ~~petition~~ complaint  
18 shall be dismissed upon the defendant's bringing into court, at any  
19 time before the decree of sale, the principal and interest due,  
20 with costs.

21                  Sec. 39.     Section 25-2162, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23                  25-2162.     On the return day of the alternative writ, or  
24 such further day as the court may allow, the party on whom the writ  
25 shall have been served may show cause, by answer made, in the same  
26 manner as an answer to a ~~petition~~ complaint in a civil action.

27                  Sec. 40.     Section 25-2170, Reissue Revised Statutes of

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1 Nebraska, is amended to read:

2           25-2170. The ~~petition must~~ complaint shall describe the  
3 property, and the several interests and estates of the several  
4 joint owners, or lessees thereof, if known. All tenants in common,  
5 joint tenants, or lessees of any estate in land or interest  
6 therein, or of any mineral, coal, petroleum, or gas rights, may be  
7 compelled to make or suffer partition of such estate or estates in  
8 the manner hereinafter prescribed.

9           Sec. 41. Section 25-2171, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           25-2171. If the number of shares or interests is known,  
12 but the owners thereof are unknown, or if there are, or are  
13 supposed to be, any interests which are unknown, contingent or  
14 doubtful, these facts ~~must~~ shall be set forth in the ~~petition~~  
15 complaint with reasonable certainty.

16           Sec. 42. Section 25-2178, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           25-2178. If the statements in the ~~petition~~ complaint and  
19 answers are not contradicted ~~in the manner aforesaid,~~ by denial  
20 under section 25-2174 or by the documentary proof exhibited, ~~as~~  
21 ~~above required,~~ they shall be taken as true.

22           Sec. 43. Section 25-21,108, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           25-21,108. If, in the proceedings in partition, judgment  
25 shall be entered directing partition, as provided in section  
26 25-2179, the court shall, after partition or after the confirmation  
27 of the sale and the conveyance by the referee, determine a

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1 reasonable amount of attorney's fees to be awarded ~~to the attorneys~~  
2 ~~of record in the proceedings,~~ which amount shall be taxed as costs  
3 in the proceedings. If the shares confirmed by such judgment and  
4 the existence of all encumbrances of which the plaintiff had actual  
5 or constructive notice were accurately pleaded in the original  
6 ~~petition~~ complaint of the plaintiff, such attorney's fees ~~for the~~  
7 ~~attorney~~ shall be awarded entirely to the attorney for the  
8 plaintiff; otherwise, the court shall order such fees for the  
9 attorneys to be divided among such of the attorneys of record in  
10 the proceedings as ~~shall~~ have filed pleadings upon which any of the  
11 findings in the judgment of partition are based. The court shall  
12 also determine and tax as costs a reasonable fee for the referee.

13               Sec. 44. Section 25-21,113, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15               25-21,113. In all actions to establish or quiet title to  
16 an estate in real estate, all persons in whose favor any interest,  
17 right, title, estate in, or lien upon such real estate appears of  
18 record shall be made defendants by the names by which they are  
19 designated on the record. When it is alleged in the ~~petition~~  
20 complaint that there are persons who claim or appear to have some  
21 interest in, right or title to, or lien upon such property, and  
22 that the ownership of, interest in, right or title to, or lien upon  
23 such property of such persons does not appear of record in or by  
24 their respective names in the county wherein such property is  
25 situated, and that the plaintiff, after diligent investigation and  
26 inquiry, is unable to ascertain and does not know the names or  
27 whereabouts, if in this state, or the residence of such persons,

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1 there shall also be designated as defendants in such action "all  
2 persons having or claiming any interest in" (here inserting an  
3 accurate and definite description of the property involved)  
4 followed by the words "real names unknown". Judgments and decrees  
5 rendered in such actions after the defendants so impleaded and  
6 designated have been served as provided by statute, shall be  
7 conclusive against all defendants impleaded and designated by name,  
8 and also against all persons who are not in actual possession of  
9 such property, whose ownership of, interest in, rights or title to,  
10 or lien upon such property does not appear of record in or by their  
11 respective names in the county wherein such property is situated.

12 Sec. 45. Section 25-21,115, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 25-21,115. It shall be sufficient to allege generally in  
15 the ~~petition~~ complaint that the defendants claim or appear to have  
16 some interest in, right or title to, or lien upon ~~said~~ the real  
17 estate or a part thereof; and it ~~shall not be~~ is not necessary to  
18 allege the nature of any adverse claim or that the value of  
19 plaintiff's title or estate is lessened thereby. No lien of record  
20 or mortgage of record, however, shall be affected by such action  
21 unless it is particularly described, and payment or other legal  
22 reason for its cancellation, or that it is barred by limitation, is  
23 specifically alleged.

24 Sec. 46. Section 25-21,124, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 25-21,124. Such information shall consist of a plain  
27 statement of the facts which constitute the grounds of the



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1 proceeding, addressed to the court, which shall stand for an  
2 original ~~petition~~ complaint.

3 Sec. 47. Section 25-21,134, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 25-21,134. When an information is upon the relation of a  
6 private individual, it shall be so stated in the ~~petition~~ complaint  
7 and proceedings, and such individual shall be responsible for costs  
8 in case they are not adjudged against the defendant. In other  
9 cases the title of the cause shall be the same as in a criminal  
10 prosecution, and the payment of costs shall be regulated by the  
11 same rule.

12 Sec. 48. Section 25-21,156, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 25-21,156. Further relief based on a declaratory  
15 judgment or decree may be granted whenever necessary or proper.  
16 The application therefor shall be by ~~petition~~ complaint to a court  
17 having jurisdiction to grant the relief. If the application ~~be~~ is  
18 deemed sufficient, the court shall, on reasonable notice, require  
19 any adverse party whose rights have been adjudicated by the  
20 declaratory judgment or decree to show cause why further relief  
21 should not be granted forthwith.

22 Sec. 49. Section 25-21,202, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 25-21,202. The claimant shall, in all cases, file a  
25 ~~petition~~ complaint setting forth (1) the facts out of which ~~his~~ the  
26 claim originally arose; (2) the action of the Legislature, or of  
27 any department of the government thereon, if any such has been had;

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1 (3) what person or persons is the owner or are the owners thereof,  
2 or in anywise interested therein; (4) that no assignment or  
3 transfer of the same, or any part thereof, or interest therein, has  
4 been made, except as stated in the ~~petition~~ complaint; and (5) that  
5 the claimant is justly entitled to the amount claimed therein from  
6 the state after allowance of all just credits and setoffs. ~~The~~  
7 ~~petition shall be verified as now required in civil actions in the~~  
8 ~~district courts.~~

9 Sec. 50. Section 25-21,206, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 25-21,206. The state may be sued in the district court  
12 of ~~the county wherein the capital is situated~~ Lancaster County in  
13 any matter founded upon or growing out of a contract, express or  
14 implied, originally authorized or subsequently ratified by the  
15 Legislature, or founded upon any law of the state. The ~~petition~~  
16 complaint in such a case shall be as provided in section 25-21,202,  
17 summons shall issue and be served in the same manner as  
18 ~~hereinbefore provided, and the~~ in section 25-21,203. The rules of  
19 pleading and practice in regard to other civil actions in the  
20 district court shall be observed in all actions by or against the  
21 state, as far as applicable except as otherwise ~~herein~~ provided,  
22 ~~PROVIDED, that when~~ in sections 25-21,201 to 25-21,218. If an  
23 action ~~has been~~ is commenced in a county other than as specified  
24 ~~herein~~ in this section or section 25-21,203, the court in which the  
25 action has been commenced shall have jurisdiction over such action,  
26 but upon timely motion by a defendant, the court shall transfer the  
27 action to the proper court in the county in which the action should

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1 or might have been commenced as ~~herein~~ provided in this section or  
2 section 25-21,203. The court in the county to which the action is  
3 transferred, in its discretion, may order the plaintiff to pay to  
4 the defendant all reasonable expenses, including ~~attorney~~  
5 attorney's fees of the defendant or defendants, incurred because of  
6 the improper venue or in proceedings to transfer such action.

7 Sec. 51. Section 25-21,223, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 25-21,223. The summons shall be issued and directed with  
10 a copy of the ~~petition~~ complaint attached to the summons, shall  
11 state the cause of the complaint, the time and place of trial of  
12 the action for possession, and the answer day for other causes of  
13 action, and shall notify the defendant that if he or she fails to  
14 appear judgment shall be entered against him or her. The summons  
15 may be served and returned as in other cases or by any person,  
16 except that the summons shall be served within three days,  
17 excluding Saturdays, Sundays, and holidays, from the date of its  
18 issuance and shall be returnable within five days, excluding  
19 Saturdays, Sundays, and holidays, from the date of its issuance.  
20 The person making the service shall file with the court an  
21 affidavit stating with particularity the manner in which he or she  
22 made the service. Trial of the action for possession shall be held  
23 not less than ten nor more than fourteen days after the date of  
24 issuance of the summons.

25 Sec. 52. Section 25-2210, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 25-2210. On the appearance docket, the clerk of the

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1 district court shall enter all actions in the order in which they  
2 were brought, the date of the summons, the time of the return  
3 thereof by the officer and his or her return thereon, the time of  
4 filing the complaint or petition, and all subsequent pleadings. On  
5 the general index he or she shall enter the names of the parties to  
6 every suit, both direct and inverse, with the page and book where  
7 all proceedings in such action may be found. The judgment record  
8 shall contain the names of the judgment debtor and the judgment  
9 creditor, arranged alphabetically, the date of the judgment, the  
10 amount of the judgment, and the amount of costs, with the page and  
11 the book where the judgment may be found. Transcripts of judgments  
12 from county courts filed in the district court shall be entered  
13 upon the judgment record. Whenever any judgment is paid and  
14 discharged, the clerk shall enter such fact upon the judgment  
15 record in a column provided for that purpose.

16 Sec. 53. Section 25-2221, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 25-2221. Except as may be otherwise more specifically  
19 provided, the period of time within which an act is to be done in  
20 any action or proceeding shall be computed by excluding the day of  
21 the act, event, or default after which the designated period of  
22 time begins to run. The last day of the period so computed shall  
23 be included unless it is a Saturday, a Sunday, or a day during  
24 which the offices of courts of record may be legally closed as  
25 provided in this section, in which event the period shall run until  
26 the end of the next day on which the office will be open.

27 All courts and their offices may be closed on Saturdays,

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1 Sundays, and these holidays: New Year's Day, January 1; Birthday  
2 of Martin Luther King, Jr., the third Monday in January;  
3 President's Day, the third Monday in February; Arbor Day, the last  
4 Friday in April; Memorial Day, the last Monday in May; Independence  
5 Day, July 4; Labor Day, the first Monday in September; Columbus  
6 Day, the second Monday in October; Veterans Day, November 11;  
7 Thanksgiving Day, the fourth Thursday in November; the day after  
8 Thanksgiving; ~~and~~ Christmas Day, December 25; and all days declared  
9 by law or proclamation of the Governor to be holidays. If any such  
10 holiday falls on Sunday, the following Monday shall be a holiday.  
11 If any such holiday falls on Saturday, the preceding Friday shall  
12 be a holiday. Court offices shall be open on all other days. If  
13 the date designated by the state for observance of any legal  
14 holiday pursuant to this section, except Veterans Day, is different  
15 from the date of observance of such holiday pursuant to a federal  
16 holiday schedule, the federal holiday schedule shall be observed.

17 Sec. 54. Section 25-2226, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 25-2226. The words found in Chapter 25 ~~this code~~ shall  
20 be construed and held to mean as follows: Complainant ~~shall mean~~  
21 means plaintiff; bill ~~or complaint shall mean~~ petition means  
22 complaint; suit ~~shall mean~~ means action or civil action; and decree  
23 ~~shall mean~~ means judgment; and all other words and terms found in  
24 ~~this code~~ Chapter 25, heretofore applicable to the chancery  
25 practice hereby repealed, shall be so construed and held as to  
26 carry out the intention of ~~this code~~ such chapter, prevent a  
27 failure of justice, and give adequate relief in all cases.

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1                   Sec. 55. Section 25-2704, Revised Statutes Supplement,  
2 2000, is amended to read:

3                   25-2704. In any civil action in county court, the  
4 summons, pleadings, and time for filings shall be the same as  
5 provided for civil actions in district court. ~~The summons shall be~~  
6 ~~returnable twenty days after the date of issue as provided in~~  
7 ~~section 25-507.01. The answer or demurrer of the defendant shall~~  
8 ~~be filed within thirty days after service of the summons and~~  
9 ~~petition or completion of service by publication, whichever is~~  
10 ~~later, as provided in section 25-821. The reply or demurrer of the~~  
11 ~~plaintiff shall be filed within fifteen days after the filing of~~  
12 ~~the answer as provided in section 25-821. The court, for good~~  
13 ~~cause shown, may extend the time for filing an answer or reply.~~  
14 The A case shall stand for trial at the earliest available time on  
15 the court docket after the issues therein are or, according to the  
16 times fixed for pleading, should have been made up.

17                   Sec. 56. Section 25-2805, Revised Statutes Supplement,  
18 2000, is amended to read:

19                   25-2805. All matters in the Small Claims Court shall be  
20 tried to the court without a jury. Except as provided in section  
21 25-2618.01, any defendant in an action or such defendant's attorney  
22 may transfer the case to the regular docket of the county court by  
23 giving notice to the court at least two days prior to the time set  
24 for the hearing. Upon such notice the case shall be transferred to  
25 the regular docket of the county court. At the same time as such  
26 notice is given to transfer the case, any defendant or such  
27 defendant's attorney may demand trial by jury, and the Small Claims

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1 Court shall forward the demand to the county court. The party  
2 causing the transfer of a case from the Small Claims Court to the  
3 regular docket shall pay as a fee the difference between the fee  
4 for filing a claim in Small Claims Court and the fee for filing a  
5 claim on the regular docket.

6 In any action transferred to the regular docket there  
7 shall be no further pleadings, ~~demurrers~~, motions challenging  
8 pleadings, or discovery unless ordered by the court upon a showing  
9 that any such procedure is necessary to the prompt and just  
10 determination of the action.

11 Sec. 57. Section 25-2924, Revised Statutes Supplement,  
12 2001, is amended to read:

13 25-2924. (1) Settlement escrow is a one-time, voluntary  
14 process by which the parties to an action seek to resolve their  
15 dispute. The settlement escrow process may be initiated at any  
16 time before trial by either party. The use of a settlement escrow  
17 does not preclude the use of any other dispute resolution or  
18 settlement process to which the parties may agree.

19 (2) Settlement escrow may only be used in district court  
20 civil actions that involve only monetary remedies. Such remedies  
21 may include, but are not limited to, damages, court costs, and  
22 attorney's fees.

23 (3) If a settlement escrow is conducted and fails to  
24 result in a settlement, the parties may not initiate a second  
25 settlement escrow for the same action.

26 Sec. 58. Section 25-2925, Revised Statutes Supplement,  
27 2001, is amended to read:

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1                   25-2925. Subsequent to the initial filing of a district  
2 court civil action involving only monetary remedies, ~~the parties to~~  
3 ~~an action shall receive from the clerk of the court information~~  
4 ~~regarding settlement escrow.~~ A a party to an action wishing to  
5 initiate a settlement escrow shall notify the escrow agent in  
6 writing. Upon receiving a written request from the initiating  
7 party, the escrow agent shall contact the responding party in  
8 writing to see whether or not the responding party also wishes to  
9 participate. If both parties agree in writing to participate, the  
10 escrow agent shall begin the settlement escrow. ~~Failure to agree~~  
11 ~~to initiate a settlement escrow does not preclude an agreement by~~  
12 ~~the parties to initiate a settlement escrow at a later time.~~

13                   Sec. 59. Section 25-2928, Revised Statutes Supplement,  
14 2001, is amended to read:

15                   25-2928. The State Court Administrator's office shall  
16 create all forms and worksheets used by escrow agents. and the  
17 ~~information regarding settlement escrow that is distributed by the~~  
18 ~~clerks of the courts.~~ The office shall train all escrow agents on  
19 settlement escrow. Escrow agents shall complete settlement escrow  
20 training conducted by the office prior to conducting a settlement  
21 escrow.

22                   Sec. 60. Sections 25-2922 to 25-2928 terminate on July  
23 1, 2004.

24                   Sec. 61. Section 33-107.01, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26                   33-107.01. A legal services fee of ~~two~~ five dollars  
27 shall be taxed as costs in each case filed in each separate



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1 juvenile court and district court, including appeals to such  
2 courts, and on each case filed in each county court except those  
3 filed in county court pursuant to its jurisdiction under  
4 subdivision (5) of section 24-517 or section 25-2802. A legal  
5 services fee of ~~two~~ five dollars shall be taxed as costs for each  
6 appeal and original action filed in the Court of Appeals and the  
7 Supreme Court. Such fees shall be remitted to the State Treasurer  
8 on forms prescribed by the State Treasurer within ten days after  
9 the close of each month for credit to the Legal Aid and Services  
10 Fund.

11 Sect. 62. Section 42-351, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 42-351. (1) In proceedings under sections 42-347 to  
14 42-381, the court shall have jurisdiction to inquire into such  
15 matters, make such investigations, and render such judgments and  
16 make such orders, both temporary and final, as are appropriate  
17 concerning the status of the marriage, the custody and support of  
18 minor children, the support of either party, the settlement of the  
19 property rights of the parties, and the award of costs and  
20 attorney's fees.

21 (2) When final orders relating to proceedings governed by  
22 sections 42-347 to 42-381 are on appeal and such appeal is pending,  
23 the court that issued such orders shall retain jurisdiction to  
24 provide for such orders regarding custody, visitation, or support  
25 or orders shown to be necessary to allow the use of property or to  
26 prevent the irreparable harm to or loss of property during the  
27 pendency of such appeal, or other appropriate orders in aid of the

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1 appeal process. Such orders shall not be construed to prejudice  
2 any party on appeal.

3 Sec. 63. Section 44-2833, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 44-2833. (1) If the insurer of a health care provider  
6 shall agree to settle its liability on a claim against its insured  
7 by payment of its policy limits of two hundred thousand dollars and  
8 the claimant shall demand an amount in excess thereof for a  
9 complete and final release and if no other health care provider is  
10 involved, the procedures prescribed in this section shall be  
11 followed.

12 (2) A ~~petition~~ motion shall be filed by the claimant with  
13 the court in which the action is pending against the health care  
14 provider or, if no action is pending, the claimant shall file a  
15 complaint in one of the district courts of the State of Nebraska,  
16 seeking approval of an agreed settlement, if any, or demanding  
17 payment of damages from the Excess Liability Fund.

18 (3) A copy of such ~~petition~~ motion or complaint shall be  
19 served on the director, the health care provider, and the health  
20 care provider's insurer and shall contain sufficient information to  
21 inform the parties concerning the nature of the claim and the  
22 additional amount demanded. The health care provider and his or  
23 her insurer shall have a right to intervene and participate in the  
24 proceedings.

25 (4) The director, with the consent of the health care  
26 provider, may agree to a settlement with the claimant from the  
27 Excess Liability Fund. Either the director or the health care

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1 provider may file written objections to the payment of the amount  
2 demanded. The agreement or objections to the payment demanded  
3 shall be filed within twenty days after the ~~petition~~ motion or  
4 complaint is filed.

5 (5) After the ~~petition~~ motion or complaint, agreement,  
6 and objections, if any, have been filed, the judge ~~of the court in~~  
7 ~~which such petition is filed~~ shall set the matter for trial as soon  
8 as practicable. The court shall give notice of the trial to the  
9 claimant, the health care provider, and the director.

10 (6) At the trial, the director, the claimant, and the  
11 health care provider may introduce relevant evidence to enable the  
12 court to determine whether or not the ~~petition~~ settlement should be  
13 approved if it has been submitted on agreement without objections.  
14 If the director, the health care provider, and the claimant shall  
15 be unable to agree on the amount, if any, to be paid out of the  
16 Excess Liability Fund, the amount of claimant's damages, if any, in  
17 excess of the two hundred thousand dollars already paid by the  
18 insurer of the health care provider shall be determined at trial.

19 (7) The court shall determine the amount for which the  
20 fund is liable and render a finding and judgment accordingly. In  
21 approving a settlement or determining the amount, if any, to be  
22 paid from the Excess Liability Fund in such a case, the court shall  
23 consider the liability of the health care provider as admitted and  
24 established by evidence.

25 (8) Any settlement approved by the court may not be  
26 appealed. Any judgment of the court fixing damages recoverable in  
27 any such contested proceeding shall be appealable pursuant to the

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1 rules governing appeals in any other civil case.

2           Sec. 64.     Section 44-2840, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           44-2840.     (1) Provision is hereby made for the  
5 establishment of medical review panels to review all malpractice  
6 claims against health care providers covered by the Nebraska  
7 Hospital-Medical Liability Act in advance of filing such actions.

8           (2) No action against a health care provider may be  
9 commenced in any court of this state before the claimant's proposed  
10 ~~petition~~ complaint has been presented to a medical review panel  
11 established pursuant to section 44-2841 and an opinion has been  
12 rendered by the panel.

13           (3) The proceedings for action by the medical review  
14 panel shall be initiated by the patient or his or her  
15 representative by notice in writing with copy of a proposed  
16 ~~petition or~~ complaint served upon the director personally or by  
17 registered or certified mail. Such notice shall designate the  
18 claimant's choice of the physician to serve on the panel,  
19 claimant's suggestion of an attorney to serve, and the court where  
20 the action shall be filed, if necessary.

21           (4) The claimant may affirmatively waive his or her right  
22 to a panel review, and in such case the claimant may proceed to  
23 file his or her action directly in court. If the claimant waives  
24 the panel review, the claimant shall serve a copy of the ~~petition~~  
25 ~~or~~ complaint upon the director personally or by registered or  
26 certified mail at the time the action is filed in court.

27           (5) The exercise of the waiver authorized by this section

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1 shall not be subject to attack for the sole reason that the  
2 claimant served the director with the notice prescribed by  
3 subsection (3) of this section prior to July 10, 1984, if the  
4 requirements of sections 44-2840 to 44-2847 have not been fulfilled  
5 on such date.

6 Sec. 65. Section 44-2841, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 44-2841. (1) The medical review panel shall consist of  
9 one attorney admitted to practice law in the State of Nebraska and  
10 three physicians who hold unlimited licenses under the laws of this  
11 state to practice medicine. The attorney shall act in an advisory  
12 capacity and as chairperson of the panel, but shall have no vote.

13 (2) The medical review panel shall be selected in the  
14 following manner:

15 (a) All physicians engaged in the active practice of  
16 medicine in this state, whether in the teaching profession or  
17 otherwise, who hold a license to practice medicine shall be  
18 available for selection;

19 (b) Each party to the action shall have the right to  
20 select one physician and, upon selection, such physician shall be  
21 required to serve. The two physicians thus selected shall select  
22 the third physician panelist. If one of the health care providers  
23 involved is a hospital, a fourth panelist shall be selected who  
24 shall be a hospital administrator selected by the hospital;

25 (c) When there are multiple plaintiffs or defendants,  
26 there shall be only one physician or hospital administrator  
27 selected per side. The plaintiff, whether single or multiple,

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1 shall have the right to select one physician and the defendant,  
2 whether single or multiple, shall have the right to select one  
3 physician;

4 (d) A panelist so selected shall serve, except that for  
5 good cause shown he or she may be excused. To show good cause for  
6 relief from serving, the panelist shall be required to serve an  
7 affidavit upon a judge of a court having jurisdiction over the  
8 claim when filed. The affidavit shall set out the facts showing  
9 that service would constitute an unreasonable burden or undue  
10 hardship. The court may excuse the proposed panelist from serving;

11 (e) Within twenty days after receipt of notification of a  
12 proposed panelist by the plaintiff, the defendants shall select a  
13 proposed panelist and advise the plaintiff or his or her attorney;

14 (f) Within twenty days of receipt of notice of any  
15 selection, written challenge without cause may be made to the panel  
16 member. Upon challenge, a party shall select another panelist. If  
17 multiple plaintiffs or defendants are unable to agree on a  
18 physician panelist or if two such challenges are made and  
19 submitted, the judge shall submit a list consisting of three  
20 qualified panelists and each side shall strike one and the  
21 remaining member shall serve in place of the challenged panelist  
22 designated by the party; and

23 (g) The parties may agree on the attorney member of the  
24 board or, if no agreement can be reached, then five proposed  
25 attorney members shall be designated by the judge having  
26 jurisdiction of the cause. The parties shall then each strike two  
27 names alternately with the claimant striking first until both sides

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1 have stricken two names and the remaining name shall be the  
2 attorney member of the panel.

3 (3) If the members of the medical review panel have not  
4 been selected within one hundred twenty days following filing of  
5 the ~~petition~~ ~~or~~ complaint required by section 44-2840, the court  
6 shall have authority to select members of the panel and to set a  
7 specific date for the hearing.

8 Sec. 66. Section 44-2842, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 44-2842. (1) The evidence to be considered by the  
11 medical review panel shall be promptly submitted by the respective  
12 parties in written form only. If any party to the proceedings  
13 fails to submit his or her evidence within a reasonable time after  
14 notice from the panel requesting such evidence, the panel may  
15 proceed to decide the matter on the evidence previously submitted.  
16 The determination of reasonable time shall be made by the panel.  
17 The evidence submitted may consist of medical charts, X-rays,  
18 laboratory test results, excerpts of treatises, depositions of  
19 witnesses including parties, and any other form of evidence  
20 allowable by the medical review panel.

21 (2) Depositions of parties and witnesses may be taken  
22 prior to the convening of the panel and prior to the commencement  
23 of the action, but in such event the attorney for the medical care  
24 provider shall be furnished with a copy of the ~~petition~~ complaint  
25 which the claimant proposes to file at least ten days before any  
26 deposition is taken. The patient shall have the right to request  
27 and receive all medical and hospital records relating to his or her

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1 case which would be admissible in evidence in a court of law. The  
2 chairperson of the panel shall advise the panel relative to any  
3 legal question involved in the review proceeding and shall prepare  
4 the opinion of the panel. A copy of the evidence shall be sent to  
5 each member of the panel.

6 (3) Either party, after submission of all evidence and  
7 upon ten days' notice to the other side, shall have the right to  
8 convene the panel at a time and place agreeable to the members of  
9 the panel. At such time either party shall have the right to  
10 present argument concerning any matters relevant to issues to be  
11 decided by the panel before the issuance of its report. The  
12 chairperson of the panel shall preside at all meetings, which  
13 meetings shall be informal.

14 (4) If the members of the medical review panel have not  
15 convened within six months of the initiation of the proceeding, the  
16 judge shall have authority to order the panel to convene.

17 Sec. 67. Section 45-103, Revised Statutes Supplement,  
18 2000, is amended to read:

19 45-103. ~~Interest~~ For decrees and judgments rendered  
20 before the operative date of this section, interest on decrees and  
21 judgments for the payment of money shall be fixed at a rate equal  
22 to one percentage point above the bond equivalent yield, as  
23 published by the Secretary of the Treasury of the United States, of  
24 the average accepted auction price for the last auction of  
25 fifty-two-week United States Treasury bills in effect on the date  
26 of entry of the judgment. For decrees and judgments rendered on  
27 and after the operative date of this section, interest on decrees



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1 and judgments for the payment of money shall be fixed at a rate  
2 equal to two percentage points above the bond investment yield, as  
3 published by the Secretary of the Treasury of the United States, of  
4 the average accepted auction price for the first auction of each  
5 annual quarter of the twenty-six-week United States Treasury bills  
6 in effect on the date of entry of the judgment. The State Court  
7 Administrator shall distribute notice of such rate and any changes  
8 to it to all Nebraska judges to be in effect two weeks after the  
9 date the auction price is published by the Secretary of the  
10 Treasury of the United States. This interest rate shall not apply  
11 to:

12 (1) An action in which the interest rate is specifically  
13 provided by law; or

14 (2) An action founded upon an oral or written contract in  
15 which the parties have agreed to a rate of interest other than that  
16 specified in this section.

17 Sec. 68. Section 60-4,105, Revised Statutes Supplement,  
18 2000, is amended to read:

19 60-4,105. (1) Unless otherwise provided by statute, any  
20 person aggrieved by a final decision or order of the director or  
21 the Department of Motor Vehicles to cancel, suspend, revoke, or  
22 refuse to issue or renew any operator's license, any decision of  
23 the director made after consideration of advice from the Health  
24 Advisory Board, or suspension of an operator's license under the  
25 License Suspension Act may appeal to either the district court of  
26 the county in which the person originally applied for the license  
27 or the district court of the county in which such person resides

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1 or, in the case of a nonresident, to the district court of  
2 Lancaster County within thirty days after the date of the final  
3 decision or order.

4 (2) Summons shall be served on the department within  
5 thirty days after the filing of the petition in the manner provided  
6 for service of a summons in section 25-510.02. Within thirty days  
7 after service of the petition and summons, the department shall  
8 prepare and transmit to the petitioner a certified copy of the  
9 official record of the proceedings before the department. The  
10 department shall require payment of a five-dollar fee prior to the  
11 transmittal of the official record. The petitioner shall file the  
12 transcript with the court before answer day as provided in ~~section~~  
13 ~~25-821~~ the pleading rules adopted by the Supreme Court.

14 (3) The district court shall hear the appeal as in equity  
15 without a jury and determine anew all questions raised before the  
16 director. Either party may appeal from the decision of the  
17 district court to the Court of Appeals.

18 (4) The appeal procedures described in the Administrative  
19 Procedure Act shall not apply to this section.

20 Sec. 69. Section 76-1441, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 76-1441. The person seeking possession shall file a  
23 ~~petition~~ complaint for restitution with the clerk of the district  
24 or county court. The ~~petition~~ complaint shall contain (a) the  
25 facts, with particularity, on which he or she seeks to recover; (b)  
26 a reasonably accurate description of the premises; and (c) the  
27 requisite compliance with the notice provisions of the Uniform

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1 Residential Landlord and Tenant Act. The ~~petition~~ complaint may  
2 notify the tenant that personal property remains on the premises  
3 and that it may be disposed of pursuant to section 69-2308. The  
4 ~~petition~~ complaint may also contain other causes of action relating  
5 to the tenancy, but such causes of action shall be answered and  
6 tried separately, if requested by either party in writing.

7 Sec. 70. Section 76-1442, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 76-1442. The summons shall be issued and directed, with  
10 a copy of the ~~petition~~ complaint attached thereto, and shall state  
11 the cause of the complaint, the time and place of trial of the  
12 action for possession, answer day for other causes of action, and  
13 notice that if the defendant fails to appear judgment shall be  
14 entered against him or her. The summons may be served and returned  
15 as in other cases or by any person, except that the summons shall  
16 be served within three days, excluding Saturdays, Sundays, and  
17 holidays, from the date of issuance and shall be returnable within  
18 five days, excluding Saturdays, Sundays, and holidays, from the  
19 date of issuance. The person making the service shall file with  
20 the court an affidavit stating with particularity the manner in  
21 which he or she made the service. If diligent efforts have been  
22 made to serve the summons in the manner provided in sections  
23 25-505.01 to 25-516.01 but such efforts were unsuccessful, the  
24 summons may be served in the manner provided in section 76-1442.01.

25 Sec. 71. Section 77-1904, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 77-1904. ~~In all foreclosure proceedings,~~ the plaintiff

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1 may include in one petition as many tax sale certificates, tax  
2 deeds, or tax liens as the plaintiff may hold, regardless of  
3 whether they are upon the same or different items of real property  
4 and whether the real property covered by them is owned by the same  
5 or different persons. It shall be sufficient, in the petition and  
6 ~~in~~ In all foreclosure proceedings, including in the complaint, it  
7 is sufficient in such foreclosure suit, to designate the township,  
8 range, section, or part of section and the number and description  
9 of any lot or block by initial letters, abbreviations, and figures.

10 In describing improvements on leased land for such notice  
11 and proceedings, the words "Improvements Only Located Upon" shall  
12 precede the designation of such property as set out in this  
13 section.

14 Sec. 72. Section 77-1906, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 77-1906. The plaintiff may also, if desired, include as  
17 or make the real property described in the ~~petition~~ complaint a  
18 defendant and, if the owners of any such real property are unknown  
19 and cannot be found, may proceed against the real property itself,  
20 but in such case the service shall be as in the case of an unknown  
21 defendant.

22 Sec. 73. Section 77-1917, Revised Statutes Supplement,  
23 2000, is amended to read:

24 77-1917. Any person entitled to redeem real property may  
25 do so at any time after the decree of foreclosure and before the  
26 final confirmation of the sale by paying to the clerk of the  
27 district court the amount found due against the property, with

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1 interest and costs to the date of redemption and, in addition  
2 thereto, when the real property has been sold at sheriff's sale to  
3 a purchaser other than the plaintiff, any subsequent taxes paid by  
4 such purchaser, as shown by tax receipts filed by such purchaser  
5 with the clerk of the district court, with interest at the rate  
6 specified in section 45-104.01, as such rate may from time to time  
7 be adjusted by the Legislature, from the date or dates of payment  
8 of such taxes, and also interest on the purchase price at the same  
9 rate, for the use of the purchaser, from the date of sale to the  
10 date of redemption. During the pendency of a foreclosure action  
11 any person entitled to redeem any lot or parcel may do so by paying  
12 to the court the amount due with interest and costs, including  
13 attorney's fees, provided for in section 77-1909, if requested in  
14 the foreclosure ~~petition~~ complaint. Within thirty days after  
15 receipt of payment of all amounts due, the holder of the tax sale  
16 certificate shall dismiss its claim in the foreclosure proceeding  
17 with respect to any redeemed tax sale certificate. The holder of  
18 the tax sale certificate shall be required to provide the county  
19 treasurer with written notice that a foreclosure suit has been  
20 instituted and provide the county treasurer with an affidavit  
21 setting forth the costs incurred in the foreclosure action and  
22 indicating whether attorney's fees were requested in the  
23 foreclosure ~~petition~~ complaint.

24           The person redeeming any lot or parcel shall be required  
25 to provide the county treasurer with an appropriate receipt  
26 evidencing the payment to the court of the amount due with interest  
27 and costs and the holder of the tax sale certificate shall file

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1 with the county treasurer notice of its dismissal of the claim in  
2 the foreclosure proceeding.

3           Sec. 74. The Revisor of Statutes shall assign section 1  
4 of this act to Chapter 25, article 8, and section 2 of this act to  
5 Chapter 25, article 2.

6           Sec. 75. This section and sections 1, 3, 57 to 62, 67,  
7 and 76 of this act become operative on their effective date. The  
8 other sections of this act become operative on January 1, 2004.

9           Sec. 76. Original sections 24-209, 33-107.01, and  
10 42-351, Reissue Revised Statutes of Nebraska, section 45-103,  
11 Revised Statutes Supplement, 2000, and sections 25-2924, 25-2925,  
12 and 25-2928, Revised Statutes Supplement, 2001, are repealed.

13           Sec. 77. Original sections 25-217, 25-318, 25-321,  
14 25-323, 25-328, 25-330, 25-331, 25-501, 25-503.01, 25-504.01,  
15 25-516.01, 25-531, 25-1002, 25-1063, 25-1064.01, 25-1075, 25-1085,  
16 25-1102, 25-1321, 25-1715, 25-2005, 25-2124, 25-2125, 25-2137 to  
17 25-2140, 25-2142, 25-2143, 25-2148, 25-2162, 25-2170, 25-2171,  
18 25-2178, 25-21,108, 25-21,113, 25-21,115, 25-21,124, 25-21,134,  
19 25-21,156, 25-21,202, 25-21,206, 25-21,223, 25-2210, 25-2221,  
20 25-2226, 44-2833, 44-2840, 44-2841, 44-2842, 76-1441, 76-1442,  
21 77-1904, and 77-1906, Reissue Revised Statutes of Nebraska, and  
22 sections 25-519, 25-525, 25-1506, 25-2002, 25-2704, 25-2805,  
23 60-4,105, and 77-1917, Revised Statutes Supplement, 2000, are  
24 repealed.

25           Sec. 78. The following sections are outright repealed:  
26 Sections 25-801 to 25-823, 25-832 to 25-838, 25-841 to 25-856,  
27 77-1905, and 77-1907, Reissue Revised Statutes of Nebraska.".